

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

March 9, 2007

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

060d-209

Oahu

Grant of Term, Non-Exclusive Easement to John Akima, Jamilynne K.U. Akima and Jyen M. Akima Trust for Seawall, Filled Land and Boat Ramp Purposes, Kahaluu, Koolaupoko, Oahu, Tax Map Key: (1) 4-7-01:05 seaward.

APPLICANT:

John Akima, Jamilynne K.U. Akima and the Jyen M. Akima Trust, as tenants in common, whose business and mailing address is 47-129 Kamehameha Highway.

LEGAL REFERENCE:

Section 171-13 and -53(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Kahaluu, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-7-01:05 as shown on the attached map labeled Exhibit A.

AREA:

754 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_\_\_ NO  
X

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing  
seawall, filled land and boat ramp, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair  
market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

During a recent site visit, Office of Conservation and Coastal Lands (OCCL) staff  
observed the subject seawall and reviewed a 1959 aerial photo and determined it appeared  
to be built before 1974, prior to the enactment of the EIS law and this action is therefore  
exempt from Ch. 343.

DCCA VERIFICATION:

The applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at  
Applicant's own cost.

REMARKS:

In the 1960s the State offered to sell accreted land to a number of shoreline property owners along this portion of Kahaluu. In 1964 John Akima, Jr. purchased the land area including up to the top of the seawall and the boat ramp portion to the high water mark. At that time, it appears the intent was for all of the existing seawall and boat ramp encroachments to be resolved with the State, however a recent survey reflects that portions were omitted. The applicants thus now need to acquire an easement for the area encroaching beyond what was purchased (see Exhibit B).

The applicants requested the Office of Conservation and Coastal Lands to resolve the encroachment discovered by their surveyor. Because the encroachment was determined to have been created prior to 1959, no after-the-fact Conservation District Use application is required. OCCL advised the applicants to apply for an easement.

Pursuant to the Board's action of June 28, 2002, under agenda item D-17 that established criteria for imposing fines of \$500 for encroachments, staff notes the subject encroachment is over 100 square feet. Therefore, the subject encroachment should be subject to a fine of \$500. However, in this case, the subject encroachment should have been disposed of through the quitclaim deed (filled land) and easement (boat ramp) executed in 1964. Staff believes it is unfair to impose a fine on a portion of seawall, which was previously State property. For this reason, staff recommends waiving of this fine.

The applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

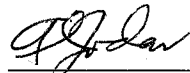
RECOMMENDATION: That the Board:

1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 4-7-001:005, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
2. Subject to the applicant fulfilling all of the applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to John Akima, Jamilynne K.U. Akima and Jyen M Akima Trust covering the subject area for seawall, filled land and boat ramp purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term shoreline

encroachment easement document form, as may be amended from time to time;

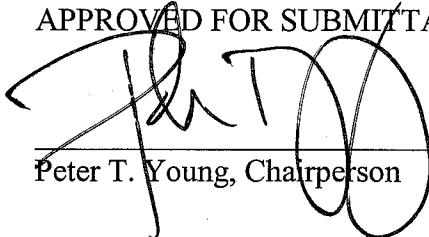
- B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-7-001:005, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement

Respectfully Submitted,



Al Jodar  
Land agent

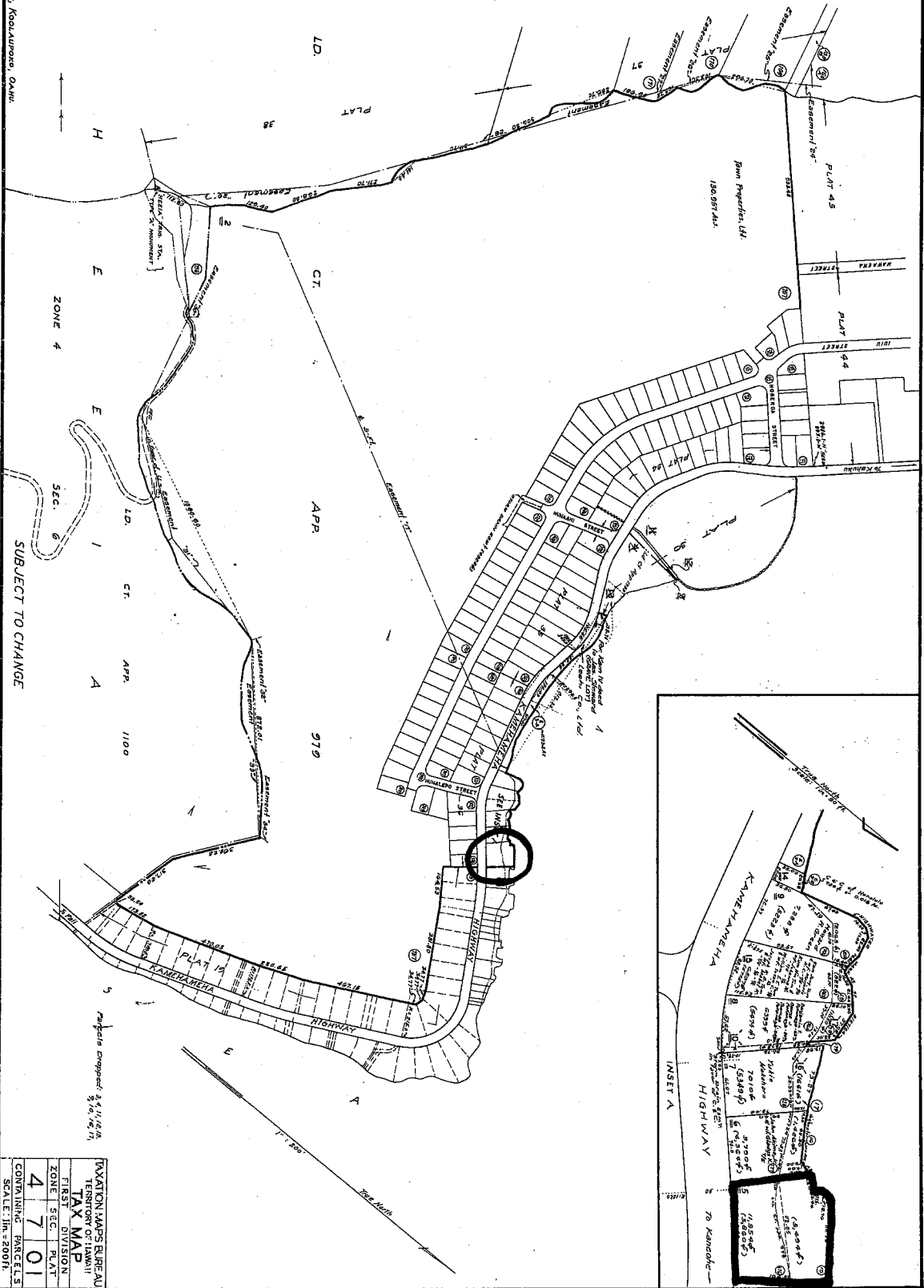
APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

Eng. No: 5485  
 Source: Taxation Maps Bureau & L.C. App. 979  
 By: I.K.H. - Aug. 20, 1940.

Part of Kanihau, Koolau, Oahu.

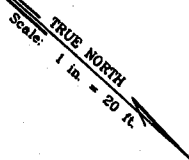


TAXATION MAPS BUREAU			
TAX MAP			
FIRST DIVISION			
ZONE	SEC.	PLAT	
4	7	01	
COMBINING PARCELS			
SCALE: 1 in. = 200 ft.			

EXHIBIT "A"

## NON-EXCLUSIVE SEAWALL

754 SQ. FT.



"HEEIA" 

7032200

(CSF 14247)

LAND

LÖT 176

COURT

APPLICATION

Yuen M. Akima Trust

Jamilyne K. U. Akima Trust

**NON-EXCLUSIVE SEAWALL EASEMENT**

Fronting Parcel 15

as shown on CSF 14248

Kahaluu, Koolaupoko, Oahu, Hawaii

47-129 Kamehameha Highway

Tax Map Key: (1)4-7-01:5